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BULLETIN

To: Health Maintenance Organizations

Re: Certification of Medical Directors

Date: February 27, 2003

Bulletin: Life and Health #03-2

The purpose of this Bulletin is to clarify who:

- Is required to be certified as a medical director under Insurance Article, Title 15, Subtitle 10C, Annotated Code of Maryland; and
- Can be listed as a medical director in adverse decision notices and grievance decision notices provided to HMO members and health care providers.

Physicians Who Qualify as Medical Directors and Are Required to be Certified

An individual who acts as a medical director, an associate medical director, or assistant medical director for a health maintenance organization (HMO) is required to be certified as a medical director by the Commissioner. This requirement is found in COMAR 31.10.20.04A, which reads:

"A medical director shall hold a certificate from the Commissioner that authorizes the applicant to act as the medical director of a health maintenance organization."

Insurance Article, §15-10C-01(f), Annotated Code of Maryland requires the medical director to be a physician and to have the following *medical director responsibilities*:

- Responsibility for the establishment or maintenance of the policies and procedures at the health maintenance organization for quality assurance and utilization management;
- Responsibility for compliance with the quality assurance and utilization management policies and procedures of the health maintenance organization; and
- Responsibility for oversight of utilization review decisions of private review agents employed by or under contract with the health maintenance organization.

The definition of *medical director* found in Insurance Article, §15-10C-01(f), Annotated Code of Maryland also includes associate medical directors and assistant medical directors of HMOs. COMAR 31.10.20.01B(8) clarifies that a physician is considered an *associate medical director or assistant medical director* if the physician has been delegated "any of the functions of a medical director."

Therefore, a physician is not required to be certified as a medical director unless the physician is responsible for at least one of the medical director responsibilities listed above.

Physicians Employed By Private Review Agents

A Private Review Agent (PRA) is not necessarily required to have one or more medical directors certified by the Commissioner.

- If a PRA does not perform utilization review for an HMO, the PRA would not be required to have any medical directors certified by the Commissioner.
- If a PRA performs utilization review for an HMO, but none of the PRA's physicians have any *medical director responsibilities*, as listed above, none of the physicians could be certified as medical directors by the Commissioner.
- If an HMO has delegated any of the *medical director responsibilities* to a PRA, each physician responsible for any of the *medical director responsibilities* is required to be certified as a medical director by the Commissioner. Physicians who are working for the PRA and who have not accepted any *medical director responsibilities* are not required to be certified as medical directors by the Commissioner.

Medical Director Required to be Named in Adverse Decision and Grievance Notices

Insurance Article, §15-10A-02(f)(2), Annotated Code of Maryland, sets forth the requirements for information that must be included in any adverse decision notice provided to the member and provider acting on behalf of the member. One of the requirements is that the notice state the name, address, and business telephone number of the *medical director or associate medical*

director, as appropriate, who made the decision if the carrier is a health maintenance organization. A similar requirement for grievance decision notices is found in §15-10A-02(i)(1)(ii)3.A. of the Insurance Article.

The law anticipates that physicians other than the medical director will be performing utilization review for the HMO. Insurance Article, §15-10C-01(f)(1)(iii), Annotated Code of Maryland indicates that one of the responsibilities of the medical director is the "oversight of utilization review decisions of private review agents employed by or under contract with the health maintenance organization."

Each adverse decision notice and each grievance decision notice is required to include the name of the medical director who is ultimately responsible for the decision. If a physician performs utilization review for an HMO, but is not a medical director, the inclusion of that physician's name on the decision notice is not sufficient to comply with the law's requirements. The adverse decision notice or grievance decision notice does not comply with the law unless the notice contains the name of the medical director responsible for that decision.

It is each HMO's responsibility to assure that if a physician other than a medical director is performing utilization review for HMO members, that a medical director is overseeing the actions of the physician. The HMO is also responsible for including the name of the appropriate medical director on each adverse decision notice and each grievance decision notice provided to a member or to a health care provider.

Any questions on this bulletin may be directed to Ellen Woodall, Director, Managed Care Unit and PRA Unit at (410) 468-2226 or to Brenda Wilson, Chief of Health Insurance and Managed Care at (410) 468-2170.

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Life and Health